

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

ERIC A. HEMION,

Plaintiff,

-against-

3:05-CV-0674  
(LEK/DEP)

MICHAEL J. ASTRUE,  
Commissioner of Social Security,<sup>1</sup>

Defendant.

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**DECISION AND ORDER**

This matter comes before the Court following a Report-Recommendation filed on February 6, 2008, by the Honorable David E. Peebles, United States Magistrate Judge, pursuant to 28 U.S.C. § 636(b) and L.R. 72.3 of the Northern District of New York. Report-Rec. (Dkt. No. 10). After ten days from the service thereof, the Clerk has sent the entire file to the undersigned, including the objections by Plaintiff, which were filed on February 22, 2008. Objections (Dkt. No. 11).

It is the duty of this Court to “make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made.” 28 U.S.C. § 636(b). “A [district] judge... may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Id. This Court has considered the objections and has undertaken a de novo review of the record and has determined that the Report-Recommendation

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<sup>1</sup> Plaintiff’s Complaint, which was filed on June 1, 2005, named Jo Anne B. Barnhart, the former Commissioner of Social Security, as the Defendant. On February 12, 2007, Michael J. Astrue took office as Social Security Commissioner. He has therefore been substituted as the named Defendant in this matter pursuant to Rule 25(d)(1) of the Federal Rules of Civil Procedure, and no further action is required in order to effectuate this change. See 42 U.S.C. § 405(g).

should be approved for the reasons stated therein.

Accordingly, it is hereby

**ORDERED**, that the Report-Recommendation (Dkt. No. 10) is **APPROVED** and **ADOPTED** in its **ENTIRETY**; and it is further

**ORDERED**, that Defendant's Motion for judgment on the pleadings is **GRANTED**; and it is further

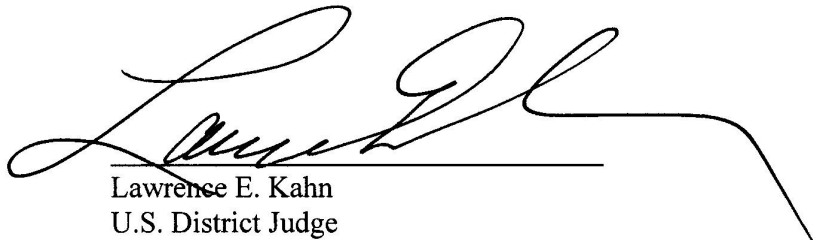
**ORDERED**, that the Commissioner's finding of no disability is **AFFIRMED**; and it is further

**ORDERED**, that Plaintiff's Complaint in this action is **DISMISSED** in all respects; and it is further

**ORDERED**, that the Clerk serve a copy of this Order on all parties.

**IT IS SO ORDERED.**

DATED: March 27, 2008  
Albany, New York



Lawrence E. Kahn  
U.S. District Judge